

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

MAL NGOY,

Plaintiff,

v.

**ALBERTO GONZALES, MICHAEL
CHERTOFF, GLENN TRIVELINE and
FNU LNU,**

Defendants.

REPORT & RECOMMENDATION

Case No. 2:15-cv-00561

District Court Judge David Nuffer

Magistrate Judge Dustin Pead

On August 5, 2015, Plaintiff Mal Ngoy filed a Petition for Writ of Habeas Corpus asking this court to “remedy Petitioner’s unlawful detention” (doc. 1). On October 20, 2015, Plaintiff was released from detention and is no longer in physical custody of the U.S. Immigration and Customs (“ICE”) (doc. 6, Exhibit A). “A habeas corpus petition is moot when it no longer presents a case or controversy under Article III. . .” *Aragon v. Shanks*, 144 F.3d 690, 691 (10th Cir. 1998) (internal citation and quotation marks omitted).

Plaintiff’s release from detention renders his pending habeas petition moot because this court is unable to grant the relief sought. Accordingly, the court RECOMMENDS that the District Court dismiss Plaintiff’s petition. Absent a valid case or controversy the court lacks jurisdiction to proceed. *See* Fed. R. Civ. P. 12(b)(1); 12(h)(3).

Copies of the foregoing Report and Recommendation are being sent to all parties, who are hereby notified of their right to object. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The parties must file an objection to this Report and Recommendation within fourteen (14) days of

being served. *Id.* Failure to object may constitute waiver of objections upon subsequent review.

DATED this 14th day of December, 2015.



Dustin Pead
U.S. Federal Magistrate Judge